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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH**

UTE INDIAN TRIBE OF THE UNTAH &
OURAY RESERVATION,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
INTERIOR, ET AL.,

Defendants.

PLAINTIFFS' NOTICE OF ERRATA

Civil Case No. 2:21-CV-00573-JNP-DAC

Judge Jill N. Parrish

Magistrate Judge Daphne A. Oberg

TO THE COURT AND PARTIES TO THIS ACTION:

PLEASE TAKE NOTICE that Plaintiffs, the Ute Indian Tribe of the Uintah and Ouray Reservation and affiliated parties (“Tribal Plaintiffs”), are providing notice of errata as follows:

1. **Plaintiffs’ Third Amended Complaint** (“TAC”), ECF No. 186, Paragraph 324 contains a typographical error in its reference to the 1992 Congressional authorization for Defendant Central Utah Water Conservancy District (“CUWCD”) to “receive federal funds and to assume responsibility for completing construction of the CUP [Central Utah Project].” Plaintiffs’ TAC identifies the statutory reference to the Central Utah Projection Completion Act (“CUPCA”) as “§ 202(D).” By this Notice of Errata, Plaintiffs correct the statutory reference in Paragraph 324 of its TAC to read “§ 203(d).” The Plaintiffs’ Appendix contains a copy of the 1992 CUPCA.¹ Section 203 of CUPCA is captioned “Uinta Basin Replacement Project,” and § 203(a) authorized the expenditure of more than \$30.5 million dollars for the construction of water storage reservoirs and related infrastructure that would replace the Upalco and Uintah units that were planned to store Ute tribal waters.² CUPCA Section 203(d) reads, in pertinent part:

(d) Non-Federal Option. In lieu of construction by the Secretary [of the Interior], the features described in subsection (a), paragraphs (1) through

¹ Pltfs’ App., Volume II, pp. 225-257, ECF No. 211-1, PageID-1552-1584.

² Pltfs’ App., Volume II, pp. 232-33, ECF No. 211-1, PageID.1559-1560. Paragraph 165 of Plaintiffs’ TAC alleges that “Title II, Sections 201(c) and 203 authorized construction of water storage and infrastructure facilities that would replace the Upalco and Uintah units that were planned to store Ute tribal waters. Congress specified, and the Federal Defendants fully admitted, that CUPCA obligated Federal Defendants to provide water storage for the Tribe’s Reserved Water Rights under Title II, Sections 201(c) and 203. However, to this day no provision has been made for the storage of tribal water pursuant to either Section 201(c) or Section 203 of CUPCA.” Third Amended Compl. at 39, ECF No. 186, PageID.801.

(5) shall be constructed by the District [Central Utah Water Conservancy District] under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty-day congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

By this Notice of Errata, Plaintiffs correct the erroneous statutory reference to CUPCA in its TAC, Paragraph 324. The statutory reference to "§ 202(D)" is corrected to read "§ 203(d)."

2. Plaintiffs' Response to Defendant CUWCD's Motion to Dismiss, ECF No. 207. The above-described typographical error in the statutory reference to CUPCA under the TAC is repeated in Plaintiff's Response to Defendant CUWCD's Motion to Dismiss, and those typographical errors are herein corrected in ECF No. 207 as follows:

Page 4 (ECF 207, PageID.1161), the excerpt from Paragraph 324 of the Plaintiffs' TAC is corrected to refer to "CUPCA § 203(d)" instead of "CUPCA § 202(D)".

Page 4 (ECF 207, PageID.1161), footnote 2, the reference to CUPCA "Sec. 202(2)(D)" is corrected to read "Sec. 203(d)".

Page 7 (ECF 207, PageID.1164), the excerpt from the TAC, Paragraph 324, is corrected from "CUPCA § 202(D)" to read "CUPCA § 203(d)".

Page 28 (ECF 207, PageID.1185), paragraph 3, line 17, the reference to

"Paragraph 354" of the TAC is corrected to read "Paragraph 324" of the TAC.

Page 28 (ECF 207, PageID.1185), the excerpt from the TAC, Paragraph 324 is corrected to read "CUPCA § 203(d)" instead of "CUPCA § 202(D)".

Page 30 (ECF 207, PageID.1187), Paragraph 2, first sentence is corrected to read "CUPCA § 203(d)" instead of "CUPCA § 202(D)".

Respectfully submitted this 8th day of September, 2023.

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s/ Frances C. Bassett

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